

### **REMARKS**

The present response is being submitted pursuant to the Office Action mailed October 5<sup>th</sup>, 2006. A request for a one month extension of time in which to respond, together with the necessary fee, is also being submitted herewith. Claims 1-23 are pending in the application.

### **REJECTION UNDER 35 U.S.C. § 102(E)**

Claims 1-21 and 23 were rejected as being anticipated by Barrett et al. (US 5,973,647). Initially, it is being presumed that the Examiner meant to include dependent claim 22 in the rejection based on Barrett et al. Dependent claim 22 is pending in the application, but the Office Action of October 5<sup>th</sup>, 2006 makes no mention of a separate rejection for, or an "objection" to, dependent claim 22. Accordingly, the undersigned has treated the rejection in view of Barrett et al. as including dependent claim 22.

In response thereto, the undersigned is submitting a declaration under 37 C.F.R. §1.131 to swear behind Barrett et al. All but one of the co-inventors (Mr. George Fitzsimmons) has signed the above-mentioned declaration. Mr. Fitzsimmons is retired from The Boeing Company. Two U.S. Express Mail mailings of the Declaration to Mr. Fitzsimmons' last known address did not produce any response from Mr. Fitzsimmons. Phone calls to his last known home phone number could not be connected (i.e., a recording is presented explaining that the number has been disconnected). Accordingly, a declaration of the undersigned is also being submitted herewith to explain the inability to obtain Mr. Fitzsimmons' signature on the §1.131 Declaration.


In view of the foregoing, it is believed that the rejection of claims 1-23 in view of Barrett et al. has been overcome, and allowance of the application is most respectfully requested.

**CONCLUSION**

If the Examiner has any questions regarding this matter, it is requested that the undersigned be contacted at (248) 641-1600 at the Examiner's earliest convenience to discuss same.

Respectfully submitted,

Dated: Feb. 5, 2002

By:   
Mark D. Elchuk, Reg. No. 33,686

HARNESS, DICKEY & PIERCE, P.L.C.  
P.O. Box 828  
Bloomfield Hills, Michigan 48303  
(248) 641-1600

MDE/chs

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application No.: 09/639,912

Filing Date: August 16, 2000

Applicant: Bengault et al

Group Art Unit: 2614

Examiner: Shang, Annan

Title: Method And Apparatus For Bi-Directional Data  
Services And Live Television Programming To  
Mobile Platforms

Attorney Docket: 7784-000129

---

Declaration under 37 C.F.R. § 1.131

I hereby declare under penalty of perjury as follows:

That I am a co-inventor of the subject matter of U.S. patent application Serial No. 09/639,912, filed August 16, 2000 (the "912 application").

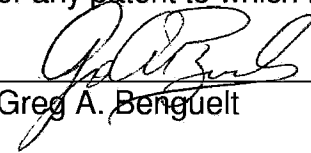
That the subject matter of the '912 application was conceived prior to Sept. 17, 1997, the filing date of U.S. Patent No. 5,973,647 to Barrett et al. (hereafter the "Barrett et al patent"), as evidenced by the document entitled "Wireless Aircraft Communicator", attached as Exhibit A. This document was created prior to September 17, 1997; its date of creation has been blacked out on page 1 for confidentiality purposes.

That diligence was exercised from just prior to Sept. 17, 1997, as illustrated by the document entitled "Phased Array Communication Antenna System (PACAS) Description Document" (attached as Exhibit B). The document of Exhibit B evidences that work was on-going in the development of the antenna system which is a component of the system set forth in the '912 application, from September 1997 through July of 1998.

That the subject matter of the '912 application has never been abandoned, suppressed or concealed.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true;

and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 the United States Code, and that such willful false statement may jeopardize the validity of the application, and patent issuing thereon, or any patent to which this verified statement is directed.

 12/7/06  
\_\_\_\_\_  
Greg A. Benguelt Date

\_\_\_\_\_  
Jeffrey P. Harrang Date

\_\_\_\_\_  
William R. Richards Date

\_\_\_\_\_  
Michael G. Lynch Date

\_\_\_\_\_  
Michael de La Chapelle Date

\_\_\_\_\_  
Paulus J. Martens Date

\_\_\_\_\_  
Ronald S. Carson Date

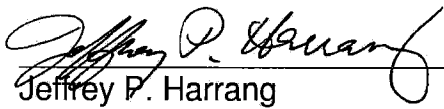
\_\_\_\_\_  
Daniel F. Miller Date

\_\_\_\_\_  
Geoffrey White Date

\_\_\_\_\_  
George Fitzsimmons Date

and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 the United States Code, and that such willful false statement may jeopardize the validity of the application, and patent issuing thereon, or any patent to which this verified statement is directed.

\_\_\_\_\_  
Greg A. Benguelt Date

 12/10/06  
\_\_\_\_\_  
Jeffrey P. Harrang Date

\_\_\_\_\_  
William R. Richards Date

\_\_\_\_\_  
Michael G. Lynch Date

\_\_\_\_\_  
Michael de La Chapelle Date

\_\_\_\_\_  
Paulus J. Martens Date

\_\_\_\_\_  
Ronald S. Carson Date

\_\_\_\_\_  
Daniel F. Miller Date

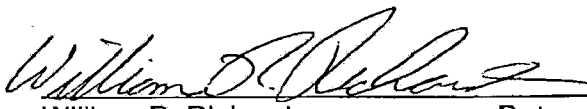
\_\_\_\_\_  
Geoffrey White Date

\_\_\_\_\_  
George Fitzsimmons Date

and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 the United States Code, and that such willful false statement may jeopardize the validity of the application, and patent issuing thereon, or any patent to which this verified statement is directed.

\_\_\_\_\_  
Greg A. Benguelt Date

\_\_\_\_\_  
Jeffrey P. Harrang Date

 12/5/06  
\_\_\_\_\_  
William R. Richards Date

\_\_\_\_\_  
Michael G. Lynch Date

\_\_\_\_\_  
Michael de La Chapelle Date

\_\_\_\_\_  
Paulus J. Martens Date

\_\_\_\_\_  
Ronald S. Carson Date

\_\_\_\_\_  
Daniel F. Miller Date

\_\_\_\_\_  
Geoffrey White Date

\_\_\_\_\_  
George Fitzsimmons Date

and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 the United States Code, and that such willful false statement may jeopardize the validity of the application, and patent issuing thereon, or any patent to which this verified statement is directed.

\_\_\_\_\_  
Greg A. Benguelt                      Date

\_\_\_\_\_  
Jeffrey P. Harrang                      Date

\_\_\_\_\_  
William R. Richards                      Date

*Michael G. Lynch* 12-04-2006  
\_\_\_\_\_  
Michael G. Lynch                      Date

\_\_\_\_\_  
Michael de La Chapelle                      Date

\_\_\_\_\_  
Paulus J. Martens                      Date

\_\_\_\_\_  
Ronald S. Carson                      Date

\_\_\_\_\_  
Daniel F. Miller                      Date

\_\_\_\_\_  
Geoffrey White                      Date

\_\_\_\_\_  
George Fitzsimmons                      Date

and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 the United States Code, and that such willful false statement may jeopardize the validity of the application, and patent issuing thereon, or any patent to which this verified statement is directed.

\_\_\_\_\_  
Greg A. Benguelt Date

\_\_\_\_\_  
Jeffrey P. Harrang Date

\_\_\_\_\_  
William R. Richards Date

\_\_\_\_\_  
Michael G. Lynch Date

 1/5/07  
\_\_\_\_\_  
Michael de La Chapelle Date

\_\_\_\_\_  
Paulus J. Martens Date

\_\_\_\_\_  
Ronald S. Carson Date

\_\_\_\_\_  
Daniel F. Miller Date

\_\_\_\_\_  
Geoffrey White Date

\_\_\_\_\_  
George Fitzsimmons Date



and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 the United States Code, and that such willful false statement may jeopardize the validity of the application, and patent issuing thereon, or any patent to which this verified statement is directed.

\_\_\_\_\_  
Greg A. Benguelt Date

\_\_\_\_\_  
Jeffrey P. Harrang Date

\_\_\_\_\_  
William R. Richards Date

\_\_\_\_\_  
Michael G. Lynch Date

\_\_\_\_\_  
Michael de La Chapelle Date

 12/20/06  
\_\_\_\_\_  
Paulus J. Martens Date

\_\_\_\_\_  
Ronald S. Carson Date

\_\_\_\_\_  
Daniel F. Miller Date

\_\_\_\_\_  
Geoffrey White Date

\_\_\_\_\_  
George Fitzsimmons Date

and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 the United States Code, and that such willful false statement may jeopardize the validity of the application, and patent issuing thereon, or any patent to which this verified statement is directed.

\_\_\_\_\_  
Greg A. Benguelt Date

\_\_\_\_\_  
Jeffrey P. Harrang Date

\_\_\_\_\_  
William R. Richards Date

\_\_\_\_\_  
Michael G. Lynch Date

\_\_\_\_\_  
Michael de La Chapelle Date

\_\_\_\_\_  
Paulus J. Martens Date

Ronald S. Carson 12/4/2006  
\_\_\_\_\_  
Ronald S. Carson Date

\_\_\_\_\_  
Daniel F. Miller Date

\_\_\_\_\_  
Geoffrey White Date

\_\_\_\_\_  
George Fitzsimmons Date





Russell Berkheimer

4 DEC 06

Russell Berkheimer

Date

Robert P. Higgins

Date

Arthur F. Morrison

Date

Russell Berkheimer

Date



Robert P. Higgins

Date

5 DEC 2006

Arthur F. Morrison

Date

---

Russell Berkheimer                      Date

---

Robert P. Higgins                      Date

*Arthur F. Morrison*      *12/06/2006*  

---

Arthur F. Morrison                      Date

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application No.: 09/639,912

Filing Date: August 16, 2000

Applicant: Greg Alan Bengueult et al.

Group Art Unit: 2614

Examiner: Annan Q. Shang

Title: METHOD AND APPARATUS FOR BI-DIRECTIONAL  
DATA SERVICES AND LIVE TELEVISION  
PROGRAMMING TO MOBILE PLATFORMS

Attorney Docket: 7784-000129/US

---

**DECLARATION OF MARK D. ELCHUK**

I, Mark D. Elchuk, hereby declare under penalty of perjury as follows:

1. That I am the attorney responsible for prosecution U.S. application Serial No. 09/639,912 (hereinafter the "912 application").
2. That Mr. George Fitzsimmons (hereinafter "Mr. Fitzsimmons") is named as a co-inventor of the subject matter of the '912 application.
3. That to the knowledge of the undersigned Mr. Fitzsimmons is a retired engineer, formerly employed by The Boeing Company.
4. That on or about December 5, 2006 a package including a declaration under 37 C.F.R. §1.131 to swear behind U.S. Patent No. 5,973,647 to Barrett et al. was mailed via U.S. Express Mail to Mr. Fitzsimmons at his last known address. No response was received by the undersigned in response to this mailing.
5. That on or about January 3, 2007 a second package, identical to the one mailed on or about December 5, 2006, was mailed to the last known address of Mr. Fitzsimmons. Again, no response has been received by the undersigned.



6. That a phone call made in January of 2007 to Mr. Fitzsimmons last known home telephone number could not be completed (i.e., a recording was received that the number is no longer in service).

7. That all reasonable efforts to obtain Mr. Fitzsimmons' signature on the Declaration under 37 C.F.R. §1.131 being submitted with the accompanying response have been made, but without success.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 the United States Code, and that such willful false statement may jeopardize the validity of the application, and patent issuing thereon, or any patent to which this verified statement is directed.

 Feb. 5, 2007  
Mark D. Elchuk Date



Mark D. Elchuk  
Direct Dial: 248-641-1229  
mdelchuk@hdp.com

January 3, 2007

Mr. George Fitzsimmons  
21604 148<sup>th</sup> Avenue, SE  
Kent, WA 98042-3125

Re: U.S. Patent Application for:  
METHOD AND APPARATUS FOR PROVIDING BI-DIRECTIONAL  
DATA SERVICES AND LIVE TELEVISION PROGRAMMING TO  
MOBILE PLATFORMS  
Serial No. 09/639,912 Filed 08/16/00  
HDP File No. 7784-000129

Dear Mr. Fitzsimmons:

This is a follow-up letter regarding the Declaration Under 37 C.F.R. § 1.131 that was forwarded to your attention on December 5, 2006 along with a copy of Exhibits A and B requesting your signature. Once again we enclose the Declaration and Exhibits for your convenience. If this document is accurate and completely truthful, then please sign and date it where indicated, and return it to me by overnight courier using the enclosed, self-addressed, stamped envelope.

This declaration is needed to overcome certain references that have been cited against the pending Boeing patent application for case 00-070, which you are named as a co-inventor on. Please do not hesitate to contact me should you have questions about this matter. My direct telephone line is (248) 641-1229. Thank you for your anticipated assistance and cooperation, and my best wishes for health and prosperity for 2007.

Very truly yours,

Mark D. Elchuk

MDE/chs  
Enclosures

Ref: 7784-000129 MDE	Date: 01/03/2007	SHIPPING:	12.45
Dep:	Wgt: 1.0 LBS	SPECIAL:	3.38
		HANDLING:	0.00
DV:	0.00	TOTAL:	15.83

Svcs: STANDARD OVERNIGHT RES  
TRCK: 9061 5377 4835

Harness, Dickey & Pierce, P.L.C. Attorneys and Counselors

Metropolitan: Detroit, MI St. Louis, MO Washington, DC

5445 Corporate Drive, Suite 200, Troy, MI 48098

Phone 248.641.1600

Fax 248.641.0270

[www.hdp.com](http://www.hdp.com)



Mark D. Elchuk  
Direct Dial: 248-641-1229  
mdeichuk@hdp.com

December 5, 2006

Mr. George Fitzsimmons  
21604 148<sup>th</sup> Avenue, SE  
Kent, WA 98042-3125

Re: U.S. Patent Application for:  
METHOD AND APPARATUS FOR PROVIDING BI-DIRECTIONAL  
DATA SERVICES AND LIVE TELEVISION PROGRAMMING TO  
MOBILE PLATFORMS  
Serial No. 09/639,912 Filed 08/16/00  
HDP File No. 7784-000129

Dear Mr. Fitzsimmons:

Attached please find a Declaration Under 37 C.F.R. § 1.131, along with a copy of Exhibits A and B. If this document is accurate and completely truthful, then please sign and date it where indicated, and return it to me by overnight courier addressed as follows:

Mark D. Elchuk, Esquire  
Harness, Dickey & Pierce, P.L.C.  
5445 Corporate Drive, Suite 200  
Troy, MI 48098

This Declaration is needed to overcome certain references that have been cited against the pending Boeing patent application for case 00-070, which you are named as a co-inventor on. Please do not hesitate to contact me should you have questions about this matter. Thank you for your anticipated assistance and cooperation.

Very truly yours,



Mark D. Elchuk

MDE/chs  
Enclosures



ACCOUNT | SER

**Countrywide HOME LOANS** Call for a FREE Loan Consultation:
**1-800-207****Ask the Experts:**

- |                                    |   |   |                                |
|------------------------------------|---|---|--------------------------------|
| • <a href="#">Refinance</a>        | • <a href="#">Cash Out Refinance</a>                | • <a href="#">How much cash can I get?</a>        | • <a href="#">Flexible Pay</a> |
| • <a href="#">Consolidate Debt</a> | • <a href="#">Loans for Bad Credit Homeowners</a>   | • <a href="#">How much can I save each month?</a> | • <a href="#">Interest Onl</a> |
| • <a href="#">Home Improvement</a> | • <a href="#">Loans for Self-Employed Borrowers</a> | • <a href="#">Can I lock in a low rate now?</a>   | • <a href="#">Jumbo Loan</a>   |

People  
SearchBusiness  
SearchEmail  
SearchReverse  
PhoneReverse  
AddressArea & ZIP  
CodesTools &  
Resources
[People Searches](#) | [Find Neighbors](#) | [International Directories](#) | [Batch People Searches](#) | [Automate People Lc](#)
< [NEW SEARCH](#)[Protect your identity with Equifax.](#)

Looking for George Fitzsimmons? Dogpile.com can find it.

**1 Result** matching "George Fitzsimmons, Kent, WA"  
**Need help finding George Fitzsimmons?**
**Fitzsimmons, George W & Bonnie L**
 21604 148th Ave SE  
 Kent, WA 98042-3125  
 (253) 631-9327
[Power Web Search](#)[Find Neighbors](#)[Save to Address Book or Outlook](#)[Map and Driving Directions](#)[Printer-Friendly](#)[Send Listing to my Email](#)[Find Nearby Businesses](#)
**View More Records  
for George  
Fitzsimmons.**
[Check Background Records](#)[Instant Criminal Records](#)[Report](#)[Search Public Records Results](#)
**View additional records for  
George Fitzsimmons.**
**Powered by 1.800.US.Search****SPONSORED LINKS**
[Click to Call George Fitzsimmons with  
VONAGE!](#)
[Create Mailing Lists](#)
 Type: Land Line  
 Provider: Qwest Corporation

*Due to number portability, some  
numbers have been transferred to a new  
service provider.*
**SPONSORED LISTINGS****Kent School - 100 Years**
 Co-ed, Boarding, Simplicity of Life I  
[www.kent-school.edu/](http://www.kent-school.edu/)
**Kent Cigarettes - \$18.60**
 Made in USA. Sold worldwide at dis  
[www.freetaxexport.com](http://www.freetaxexport.com)
**Kent**
 Get our best price guarantee on all  
[www.Expedia.com](http://www.Expedia.com)
**Kent**
 Find Great Deals & Exclusive ORBIT  
[www.ORBIZ.com](http://www.ORBIZ.com)